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This is in response to a letter dated April 11, 2011 that requested the consent of the Commissioner of the Internal Revenue Service ("Commissioner") for Shareholder to make a retroactive qualified electing fund ("QEF") election under section 1295(b) of the Internal Revenue Code (the "Code") and Treas. Reg. §1.1295-3(f) with respect to Shareholder's investment in FC.

The ruling contained in this letter is based upon information and representations submitted on behalf of Shareholder by Tax Matters Partner, Shareholder's tax matters partner, and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of this request for ruling, such material is subject to verification on examination. The information submitted in the request is substantially as set forth below.

FACTS

In Year 1, Tax Matters Partner acquired q shares of FC and contributed the shares to Shareholder in exchange for an interest in Shareholder. In Year 4, Tax Matters Partner realized that FC might be a passive foreign investment company ("PFIC") within the meaning of section 1297(a). Tax Matters Partner consulted with Advisor, who confirmed that FC was a PFIC.

The Country A tax return for FC is prepared by Accounting Firm. During the relevant time period, FC did not provide its U.S. shareholders with any information statements indicating that interests in FC might constitute interests in a PFIC.

Tax Matters Partner prepares Shareholder's tax returns. A tax advisor himself, Tax Matters Partner consults with other tax advisors and utilizes professional tax preparation software and professional tax checklists to identify complex tax and compliance issues, such as what constituted a PFIC and how to file appropriately for PFICs. Tax Matters Partner stays current with tax issues by attending continuing professional education courses, including courses on international taxation.

RULING REQUESTED

Shareholder requests the consent of the Commissioner to make a retroactive QEF election with respect to FC for Year 1 under Treas. Reg. §1.1295-3(f).

LAW

Section 1295(a) provides that a PFIC will be treated as a QEF with respect to a shareholder if (1) an election by the shareholder under section 1295(b) applies to the PFIC for the taxable year; and (2) the PFIC complies with the requirements prescribed by the Secretary for purposes of determining the ordinary earnings and net capital gains of the company.

Under section 1295(b)(2), a QEF election may be made for a taxable year at any time on or before the due date (determined with regard to extensions) for filing the return for the taxable year. To the extent provided in regulations, the election may be made after

the due date if the shareholder failed to make an election by the due date because the shareholder reasonably believed the company was not a PFIC.

Under Treas. Reg. §1.1295-3(f), a shareholder may request the consent of the Commissioner to make a retroactive QEF election for a taxable year if:

1. the shareholder reasonably relied on a qualified tax professional, within the meaning of Treas. Reg. §1.1295-3(f)(2);
2. granting consent will not prejudice the interests of the United States government, as provided in Treas. Reg. §1.1295-3(f)(3);
3. the request is made before a representative of the Internal Revenue Service raises upon audit the PFIC status of the company for any taxable year of the shareholder; and
4. the shareholder satisfies the procedural requirements of Treas. Reg. §1.1295-3(f)(4).

The procedural requirements include filing a request for consent to make a retroactive election with, and submitting a user fee to, the Office of the Associate Chief Counsel (International). Treas. Reg. §1.1295-3(f)(4)(i). Additionally, affidavits signed under penalties of perjury must be submitted that describe:

1. the events that led to the failure to make a QEF election by the election due date;
2. the discovery of the failure;
3. the engagement and responsibilities of the qualified tax professional; and
4. the extent to which the shareholder relied on the professional.

Treas. Reg. §§1.1295-3(f)(4)(ii) and (iii).

CONCLUSION

Based on the information submitted and representations made with Shareholder's ruling request, we conclude that Shareholder has satisfied Treas. Reg. §1.1295-3(f).

Accordingly, consent is granted to Shareholder to make a retroactive QEF election with respect to FC for Year 1, provided that Shareholder complies with the rules under Treas. Reg. §1.1295-3(g) regarding the time and manner for making the retroactive QEF election.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This private letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter ruling must be attached to any federal income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Jeffery G. Mitchell
Branch Chief, Branch 2
International